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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/585,765	12/17/2007	Wilhelm Baruschke	016906-0527	7818

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FOLEY AND LARDNER LLP
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EXAMINER

NGUYEN, GEORGE BINH MINH

ART UNIT	PAPER NUMBER
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3744

MAIL DATE	DELIVERY MODE
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08/05/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/585,765	Applicant(s) BARUSCHKE ET AL.	
	Examiner GEORGE NGUYEN	Art Unit 3744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 July 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>7/12/2010; 12/12/2006; 07/12/2006</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Receipt is acknowledged of Applicant's preliminary amendment filed on July 12, 2006

Claims 1-26 are presented for examination.

Receipt is acknowledged of the IDS filed on July 12, 2010, December 12, 2006, and July 12, 2006 which have been considered and placed of record in the file.

This application has been filed with formal drawings which are acceptable to the examiner.

Priority

Acknowledgment is made of applicant's claim for foreign priority based on an application filed in 10/585,765 on October 16, 2006. It is noted, however, that applicant has not filed a certified copy of the 10/585,765 application as required by 35 U.S.C. 119(b).

Claim Objections

Claim 4 is objected to because of the following informalities: in line 3, the word "or" should have been "for".

Claims 5 and 6 are objected to because of "open-loop controlled,closed loop controlled". The comma should have been substituted thereof with "or". Appropriate correction is required.

Drawings

The disclosure is objected to because of the following informalities: on page 9, fig. 8 should have rewritten to show that there are two figures 8a and 8b.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In re claim 1, line 2, the phrases "if appropriate" and "such as" render the claim indefinite because it is unclear whether the limitations following the phrases are part of the claimed invention. See MPEP § 2173.05(d). Lines 4-5, "an air outflow vent, and having at least one air outflow vent" are double inclusions.

In claim 3, the limitations of "the swirl of the at least one air stream" lacks proper antecedent basis.

In claim 16, the preamble "the method of ..." is not consistent with the preamble of "A heating, ventilating or air-conditioning system" in claim 1 since claim 16 depends on claim 1. For examination purpose, claim 16 is interpreted as depending on claim 15.

In claim 20, the limitations of "the parameter value P2" lacks proper antecedent basis. For examination purpose, claim 20 depends on claim 19.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Hara et al.'4,949,624 (hereinafter Hara).

In re claim 1, Hara discloses a heating, ventilating or air-conditioning system having a housing #20 in which, if appropriate, at least one heat exchanger such as a heating element #31 and/or vaporizer #30 is accommodated, for the purpose of conditioning the air, having a blower #28 with at least one air duct #23 for feeding preferably conditioned air to an air outflow vent #4, and having at least one air outflow vent #4 from which air streams out preferably into a passenger compartment #3 of a vehicle (Fig. 2, col. 4, line 36 to col. 5, line 32) the outflow characteristic of the air outflow vent being adjustable in a controllable fashion between a first characteristic with a scatter character and a second characteristic with a spot character (col. 5, diffusing, concentration, lines 34-64).

In re claim 2, Hara discloses wherein the outflow characteristic can be varied by means of a settable swirl (Figs. 3A-3B, 4A, Table 1, col. 8, lines 49-68).

In re claim 3, Hara discloses wherein the swirl of the at least one air stream can be set between a maximum value for the scatter characteristic and a minimum value for the spot characteristic (Figs. 3A-3b, 4A, Table 1, col. 8, lines 49-68).

In re claim 4, Hara discloses that the outflow characteristic can be set for open-loop controlled or closed-loop controlled as a function of at least one parameter and/or at least one operating state (Fig. 4A).

In re claim 5, Hara discloses that the outflow characteristic can be open-looped controlled or closed-loop controlled or set as a function of at least one parameter as a deviation from a setpoint value or as a difference from a setpoint value (col. 7, lines 10-15), Table 1).

In re claim 6, Hara discloses characterized in that at the outflow characteristic can be open-loop controlled or closed-loop controlled or set as a function of a parameter field or characteristic diagram of a plurality of parameters (Fig. 4A) .

In re claim 7, Hara discloses a parameter P is a variable of the passenger compartment temperature Tic (Fig. 4A).

In re claim 8, Hara discloses that the outflow characteristic can be set to spot character when there is a first deviation of the actual value from a setpoint value (Fig. 4A, step 116 Yes, #124, Table 1).

In re claim 9, Hara discloses that the outflow characteristic can be set to scatter character when there is a second deviation of the actual value from a setpoint value (Fig. 4A, step 122 No, #126, Table 1).

In re claim 10, Hara discloses that the outflow characteristic can be set to an intermediate position between the spot character and scatter character for actual values between the first and second setpoint values (Fig. 4A, step 122 Yes, #128, Table 1).

In re claim 11, Hara discloses that in the case of the spot character the quantity of air which can flow out is maximized (Fig. 4A, Table 1).

In re claim 12, Hara discloses that in the case of the scatter character the quantity of air which can flow out is reduced compared to the maximum value (Fig. 4A, Table 1).

In re claim 13, Hara discloses that the at least one air outflow vent is a footwell air outflow vent, a ventilation air outflow vent, a defrosting air outflow vent or a side air outflow vent (Fig. 2, #4).

In re claim 14, Hara discloses that the at least one air outflow vent is arranged in the trim areas or pillar areas of the passenger compartment of the vehicle (Fig. 2, #4).

In re claims 15-26, under the principles of inherency, if a prior art device, in its normal and usual operation, would necessarily perform the method claimed, then the method claimed will be considered to be anticipated by the prior art device. When the prior art device is the same as a device described in the specification for carrying out the claimed method, it can be assumed the device will inherently perform the claimed process. *In re King*, 801 F.2d 1324, 231 USPQ 136 (Fed. Cir. 1986). MPEP 2112.02

In re claims 19-20, Hara discloses the claim limitations in Fig. 4A.

In re claim 25, Hara discloses the claim limitations in col. 9, lines 19-51.

In re claim 26, Hara discloses the claim limitations in Table 1.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Please see PTO-892.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to GEORGE NGUYEN whose telephone number is (571)272-4491. The examiner can normally be reached on Monday -Friday from 8 AM-4 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cheryl Tyler can be reached on 571-272-4834. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

George Nguyen
Primary Examiner
Art Unit 3744

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Primary Examiner, Art Unit 3744